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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,963	03/11/2004	Wolfgang Thomar	081276-1030-00	6270
34044 7590 10/04/2007 MICHAEL BEST & FRIEDRICH LLP 100 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202			EXAMINER GRAHAM, GARY K	
			ART UNIT 1744	PAPER NUMBER
			MAIL DATE 10/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/797,963	Applicant(s) THOMAR ET AL.	
	Examiner Gary K. Graham	Art Unit 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20050222&20070315</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the figures 3, 6, 9, 12, 14 and 16 species in the reply filed on 06 July 2007 is acknowledged. The traversal appears to be on the grounds that figure 5 should be examined along with the other figures. This is not found persuasive because it does not specifically address the merits of the election requirement. Applicant must distinctly and specifically point out the supposed errors in the restriction requirement. It is noted that if claim 1 is later found allowable and remains generic to fig 5, then claim 10 will be rejoined at that time.

Specification

The disclosure is objected to because of the following informalities: Reference to the claims from the written description appears improper. The written description should not look to the claims to define the invention. For example, page 1, line 30.

Appropriate correction is required.

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Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9, 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2, there is no antecedent basis for “the one band surface”. In line 5, there is no antecedent basis for “this covering part”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller (German patent 10036122).

The patent to Mueller discloses the invention substantially as is claimed, including a wiper blade (fig.9) having an elastic wiper strip (2), which is placed against a band surface of elastic supporting element (1). The other band surface of the supporting element is covered by another component (7) of the blade, at least in sections. This covering component grips under the supporting element with claw-like projections arranged in the longitudinal direction of the wiper blade. The covering part is made of an elastic plastic and is provided with an armoring (S.i) in the area of the projections. The armoring is disclosed as being harder than the remainder (S.a) of the covering part.

The patent to Mueller discloses all of the above recited subject matter with the exception of the armoring layer (S.i) being stronger than the remainder of the covering part and the armoring being of metal.

While Mueller only discloses that the armoring layer is harder than the remainder of the covering part, it would have been obvious to make such stronger as well. The armoring layer (S.i) acts to join the outer layer or remainder of the covering part with the supporting element and the mounting plate block (4). Thus the armoring layer handles the majority of the forces in the moving of the wiper blade. This is most likely why the armoring layer is disclosed as harder. It would have been obvious to one of skill in the art to make the armoring layer of Mueller as stronger than the remainder of the covering part, if it's not already, to ensure stability within the wiper blade structure. The making of high or higher stress components as stronger than lower stress components is well established.

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With respect to claim 2, while Mueller discloses that the armoring is plastics, it would have been obvious to one of skill in the art to make such of any material so desired, including metal as claimed. The particular choice of material of the armoring appears to relate more to the choice of the manufacturer and the availability of materials to make the armoring than on any inventive concept. Use of both plastics and metals are well known in the automotive arts and substitution of one for the other is generally considered obvious, lacking some criticality of such choice.

Claims 1-4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Block et al (German patent 10044913) in view of Mueller (German patent 10036122).

The patent to Block discloses the invention substantially as is claimed, including a wiper blade (fig.2) having an elastic, rubber wiper strip (14), which is placed against a band surface of a pair of elastic, parallel supporting elements (32). The other band surface of the supporting element is covered by another component (42) of the blade, at least in sections. This covering component grips under away facing edges of the supporting element with claw-like projections arranged in the longitudinal direction of the wiper blade. The covering part is made of an elastic plastic and the holding claws thereof are provided with an initial bevel on an underside.

The patent to Block discloses all of the above recited subject matter with the exception of an armoring provided on the covering part.

The patent to Mueller discloses all of the above recited subject matter.

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It would have been obvious to one of skill in the art to provide the covering of Block with an armoring, as clearly suggested by Mueller, to enhance the structural integrity of the covering. While Mueller only discloses that the armoring layer is harder than the remainder of the covering part, it would have been obvious, as discussed above, to make such stronger as well when providing such in the Block covering.

With respect to claim 2, while Mueller discloses that the armoring is plastics, it would have been obvious to one of skill in the art to make such of any material so desired, including metal as claimed. The particular choice of material of the armoring appears to relate more to the choice of the manufacturer and the availability of materials to make the armoring than on any inventive concept. Use of both plastics and metals are well known in the automotive arts and substitution of one for the other is generally considered obvious, lacking some criticality of such choice.

Allowable Subject Matter

Claims 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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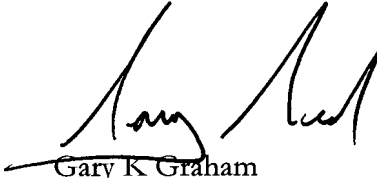
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys J. Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Gary K. Graham
Primary Examiner
Art Unit 1744

GKG
25 September 2007